

House Bill 424 (AS PASSED HOUSE AND SENATE)

By: Representatives Coan of the 101st, Reese of the 98th, Hamilton of the 23rd, Cox of the 102nd, Carter of the 159th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to provide a definition for the term "farm laborer"; to provide for the applicability of Chapter 9 of Title 34; to provide for the dismissal of certain claims in which no hearing has been held after a certain time period; to extend the period of time in which the employer has to select a rehabilitation supplier; to specify that examinations of the employee may include physical, psychiatric, and psychological examinations; to provide that charges for prescriptions and charges for other items and services shall be subject to the approval of the State Board of Workers' Compensation; to increase the weekly wage amounts for compensation for total disability; to increase the maximum weekly benefit for compensation for temporary partial disability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended by revising subsection (a) of Code Section 34-9-2, relating to the applicability of the chapter to employers and employees, as follows:

"(a)(1) As used in this subsection, the term 'farm laborer' shall include, without limitation, any person employed by an employer in connection with the raising and feeding of and caring for wildlife, as such term is defined in paragraph (77) of Code Section 27-1-2.

(2) This chapter shall not apply to common carriers by railroad engaged in intrastate trade or commerce; nor shall this chapter be construed to lessen the liability of such common carriers or take away or diminish any right that any employee of such common carrier or, in case of his or her death, the personal representative of such employee may have under the laws of this state; nor shall this chapter apply to employees whose employment is not in the usual course of trade, business, occupation, or profession of the

1 employer or not incidental thereto; nor to farm laborers or domestic servants; nor to
2 employers of such employees; nor to any person, firm, or private corporation, including
3 any public service corporation, that has regularly in service less than three employees in
4 the same business within this state, unless such employees and their employers
5 voluntarily elect to be bound; nor to any person performing services as a licensed real
6 estate salesperson or associate broker who has a written contract of employment
7 providing that he or she shall perform all services as an independent contractor."

8 SECTION 2.

9 Said chapter is further amended by revising Code Section 34-9-100, relating to the filing of
10 claims with the State Board of Workers' Compensation and the dismissal of stale claims, as
11 follows:

12 "34-9-100.

13 (a) Subject to Code Section 34-9-82, a claim for compensation may be filed with the board
14 at any time following an injury or death. The board and its administrative law judges shall
15 have full authority to hear and determine all questions with respect to such claims.

16 (b) The board shall make or cause to be made any investigation or mediation it considers
17 necessary and, upon its own motion or application of any interested party, order a hearing
18 thereon and assign the claim to an administrative law judge for review. Furthermore, the
19 board may direct the parties to participate in mediation conducted under the supervision
20 and guidance of the board.

21 (c) ~~On or after July 1, 1985, a~~ Any application for hearing filed with the board pursuant
22 to this Code section, on or after July 1, 1985, but prior to July 1, 2007, for which no
23 hearing is conducted for a period of five years shall automatically stand dismissed.

24 (d)(1) For injuries occurring on or after July 1, 2007, any claim filed with the board for
25 which neither medical nor income benefits have been paid shall stand dismissed with
26 prejudice by operation of law if no hearing has been held within five years of the alleged
27 date of injury.

28 (2) This subsection shall not apply to a claim for an occupational disease as defined in
29 Code Section 34-9-280.

30 (3) The form provided by the board for use in filing a workers' compensation claim shall
31 include notice of the provisions of this subsection.

32 (e) Any claim, notice, or appeal required by this chapter to be filed with the board shall be
33 deemed filed on the earlier of:

34 (1) The ~~the~~ date such claim or notice is actually received by the board; or

1 (2) ~~The~~ the official postmark date such claim or notice was mailed to the board, properly
2 addressed with postage prepaid, by registered or certified mail or statutory overnight
3 delivery."

4 SECTION 3.

5 Said chapter is further amended by revising subsection (a) of Code Section 34-9-200.1,
6 relating to rehabilitation benefits and rehabilitation suppliers, as follows:

7 "(a) In the event of a catastrophic injury, the employer shall furnish the employee entitled
8 to benefits under this chapter with reasonable and necessary rehabilitation services. The
9 employer either shall appoint a registered rehabilitation supplier or give reasons why
10 rehabilitation is not necessary within 48 hours of the employer's acceptance of the injury
11 as compensable or notification of a final determination of compensability, whichever
12 occurs later. If it is determined that rehabilitation is required under this Code section, the
13 employer shall have a period of ~~15~~ 20 days from the date of notification of that
14 determination within which to select a rehabilitation supplier. If the employer fails to
15 select a rehabilitation supplier within such time period, a rehabilitation supplier ~~will~~ shall
16 be appointed by the board to provide services at the expense of the employer. The
17 rehabilitation supplier appointed to a catastrophic injury case shall have the expertise
18 which, in the judgment of the board, is necessary to provide rehabilitation services in such
19 case."

20 SECTION 4.

21 Said chapter is further amended by revising subsections (a) and (e) of Code Section
22 34-9-202, relating to an examination of an injured employee, as follows:

23 "(a) After an injury and as long as he claims compensation, the employee, if so requested
24 by his or her employer, shall submit himself or herself to examination, at reasonable times
25 and places, by a duly qualified physician or surgeon designated and paid by the employer
26 or the board. Such examination may include physical, psychiatric, and psychological
27 examinations."

28 "(e) Notwithstanding the rights afforded an employee under Code Section 34-9-201, the
29 employee, after an accepted compensable injury and within 120 days of receipt of any
30 income benefits, shall have the right to one examination at a reasonable time and place,
31 within this state or within 50 miles of the employee's residence, by a duly qualified
32 physician or surgeon designated by the employee and to be paid for by the employer. Such
33 examination, of which the employer or insurer shall be notified in writing in advance, shall
34 not repeat any diagnostic procedures which have been performed since the date of the
35 employee's injury unless the costs of such diagnostic procedures which are in excess of

\$250.00 are paid for by a party other than the employer or the insurer. Such examination may include physical, psychiatric, and psychological examinations.

SECTION 5.

Said chapter is further amended by revising Code Section 34-9-205, relating to board approval of physician's fees, hospital, and other charges, as follows:

"34-9-205.

(a) Fees of physicians, ~~and~~ charges of hospitals, charges for prescription drugs, and charges for ~~and~~ other items and services under this chapter shall be subject to the approval of the State Board of Workers' Compensation. No physician, hospital, or other provider of services shall be entitled to collect any fee unless reports required by the board have been made.

(b) Annually, the board shall publish a list by geographical location of usual, customary, and reasonable charges for all medical services provided under subsection (a) of this Code section. The board may consult with medical specialists in preparing said list. Fees within this list shall be presumed reasonable. No physician or hospital or medical supplier shall bill the employee for authorized medical treatment; provided, however, that if an employee fails to notify a physician, hospital, or medical supplier that he or she is being treated for an injury covered by workers' compensation insurance, such provider of medical services shall not be civilly liable to any person for erroneous billing for such covered treatment if the billing error is corrected by the provider upon notice of the same. The board may require recommendations from a panel of appropriate peers of the physician or hospital or other authorized medical supplier in determining whether the fees submitted and necessity of services rendered were reasonable. The recommendations of the panel of appropriate peers shall be evidence of the reasonableness of fees and necessity of service which the board shall consider in its determinations.

(c) Any party requesting peer review pursuant to the provisions of this Code section shall pay to the board such filing costs for peer review as established by the board; provided, however, that the prevailing party in any peer review request shall be entitled to recover its filing costs, if any, from the party which does not prevail."

SECTION 6.

Said chapter is further amended by revising Code Section 34-9-261, relating to compensation for total disability, as follows:

"34-9-261.

While the disability to work resulting from an injury is temporarily total, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the

1 employee's average weekly wage but not more than ~~\$450.00~~ \$500.00 per week nor less
2 than ~~\$45.00~~ \$50.00 per week, except that when the weekly wage is below ~~\$45.00~~ \$50.00,
3 the employer shall pay a weekly benefit equal to the average weekly wage. The weekly
4 benefit under this Code section shall be payable for a maximum period of 400 weeks from
5 the date of injury; provided, however, that in the event of a catastrophic injury as defined
6 in subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section
7 shall be paid until such time as the employee undergoes a change in condition for the better
8 as provided in paragraph (1) of subsection (a) of Code Section 34-9-104."

9 **SECTION 7.**

10 Said chapter is further amended by revising Code Section 34-9-262, relating to compensation
11 for temporary partial disability, as follows:

12 "34-9-262.

13 Except as otherwise provided in Code Section 34-9-263, where the disability to work
14 resulting from the injury is partial in character but temporary in quality, the employer shall
15 pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the
16 difference between the average weekly wage before the injury and the average weekly
17 wage the employee is able to earn thereafter; but not more than ~~\$300.00~~ \$334.00 per week
18 for a period not exceeding 350 weeks from the date of injury."

19 **SECTION 8.**

20 All laws and parts of laws in conflict with this Act are repealed.